

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICANDRO GARCIA PEREZ,

Defendant.

4:23CR3117

ORDER

This matter is before the Court on the Magistrate Judge's Findings and Recommendation on Plea of Guilty ([Filing No. 81](#)) recommending that the Court accept Defendant's plea of guilty. There are no objections to the Findings and Recommendation. Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(C\)](#) and [NECrimR 11.2\(d\)](#), the Court has conducted a de novo review of the record and will hold this matter in abeyance.

At the change of plea hearing, the Magistrate Judge advised Defendant that the government was required to prove certain elements to convict him of the crime charged in the Indictment. While reciting these elements, the Magistrate Judge misspoke as to the date of the charged offense. Specifically, the Magistrate Judge said the charged crime occurred on June 19, 2023, rather than saying the crime took place on June 9, 2023—as alleged in the Indictment. ([Filing No. 1](#); [Filing No. 85](#).) The Court notes that other portions of the record, including the factual basis in the Plea Agreement, and the factual basis announced on the record during the plea hearing, make clear that the charged offense occurred on or about June 9, 2023. ([Filing No. 80](#); [Filing No. 85](#).)

Also, it appears the Magistrate Judge made a misstatement as to the fine in this case. The Magistrate Judge said Defendant would be subject to a "\$10 million fine," instead of stating this is the maximum fine allowed.

Apart from these issues, the Court finds Defendant was fully appraised of all relevant rights he was waiving by entering a plea of guilty. Therefore, the Court will hold this matter in abeyance, direct that this case provisionally proceed to sentencing, and address these issues with Defendant at that time before deciding whether to accept his plea of guilty.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation on Plea of Guilty ([Filing No. 81](#)) is held in abeyance.
2. This case shall provisionally proceed to sentencing, and the matters referenced above will be addressed at that time.

Dated this 12th day of December, 2024.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Susan M. Bazis", is written over a horizontal line.

Susan M. Bazis
United States District Judge